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A D D R E S S
OF
HIS EXCELLENCY
ALEXANDER H. BULLOCK,
TO THE COUNCIL,
UPON THE QUESTION OF
IMPROVING THE FLATS IN SOUTH BAY:
AND
ACCOMPANYING DOCUMENTS.

B O S T O N :
WRIGHT & POTTER, STATE PRINTERS.
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ADDRESS

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A D D R E S S .

Commonwealth of Massachusetts.

EXECUTIVE DEPARTMENT, BOSTON, October 10, 1868.

To the Honorable Council :

For more than a quarter of a century the subject of improving the harbor of the city of Boston, and of bringing into some actual use the flats therein belonging to the Commonwealth, has been before the legislature and has arrested the public attention. It is many years since a commission, composed of some of our ablest citizens, after a thorough investigation and a hearing of all parties interested, came to the conclusion that the Commonwealth was the proprietor in fee of a large quantity of flats, which it had a right to dispose of as it would dispose of any other valuable property.

From that day down to the present, commissioners have been from time to time appointed to take charge of the subject and to make suggestions as to the most expedient course for the Commonwealth to pursue in protecting at the same time its own interests in this property and in improving the harbor of Boston. A number of reports have been made, and considerable expense has been incurred ; but nothing has ever been effectually done in this important field of action.

It would not be profitable, nor is it necessary, to go into an investigation of the reasons of their delay in a matter of so much consequence. Meanwhile, the Commonwealth did proceed with vigor in improving the territory known as the Back Bay, and although this remarkable enterprise met with the most determined opposition and encountered difficulties of the gravest character, it steadily progressed after being once under way, and the result has been most satisfactory. A territory which had become an intolerable nuisance has been filled up with clear gravel. Some of the most magnificent avenues in

the country and in the world have been laid out; already stately buildings—some them of a public character—of the value of millions of dollars, have been erected; and the Commonwealth, after having completed its plans, finds itself with over a million of dollars in the treasury and with land now ready for sale estimated to be worth a million and a half of dollars.

Perhaps the most remarkable fact connected with this improvement was that in its initiate and early progress, and until its success was a certain thing, the Commonwealth steadily refused to make any advances from the State treasury, and would only pay for the work as it progressed in portions of the land itself. It incurred no responsibility and early adopted the policy of selling its share of the lands at public auction, so that all it has received was without the risk of a dollar on its own behalf.

In relation to the flats in the South Bay, near South Boston, it was not until 1867 that the legislature was willing to delegate full powers to take any specific action for their improvement and sale. By chapter 93 of the resolves of that year, complete authority was given to a joint committee of the legislature, subject to the approval of the governor and council, “to release for money or such other valuable considerations, and upon such terms and conditions as they shall think fit, the right, title and interest of the Commonwealth in and to the whole or any part of the land and flats in Boston Harbor, which lie northerly of South Boston and easterly of Fort Point Channel,” &c. The committee also had power, subject to the approval of the governor and council, to contract for the filling of said flats, build wharves, docks, streets, &c., and to settle controversies, “provided that nothing herein contained shall authorize said committee, by any stipulation or contract, to require the payment of money from the treasury of the Commonwealth;” showing a clear intention on the part of the Commonwealth to adopt the same policy which had been attended with such favorable results in improving the Back Bay. The committee appointed under this resolve consisted of able men, who appear to have devoted a good deal of attention to the subject. They made an elaborate report to the last legislature, (Senate document, 1868, No. 76,) from which it appeared that they had made no sales

of the flats and had entered into no contracts. The reasons of this were various; the principal one appearing to be a doubt in their minds as to the wisdom of the policy adopted by the legislature of not authorizing the expenditure of any money from the State treasury. "Upon mature reflection," they say on page 37, "we came to the conclusion that we should fail to do justice to the Commonwealth if we accepted any bid until the legislature had passed upon the question whether it would not be better for the State to assume the whole work, and to make contracts, payments to be made in cash." Their reasons for this opinion are given at length.

At the last session of the legislature this report, in connection with the whole subject, was again considered during nearly the whole session by a joint committee, which reported the present law (Act of 1868, chapter 326.) The joint committee referred to consisted of eminent gentlemen whose personal weight and official sanction may be taken to be part of the whole proceeding. The act reported by them and adopted unanimously by the legislature, contains a reiteration of the policy of the previous year as to payments in money. The act giving power to the legislative committee of 1867 was expressly repealed by the act of 1868, which committed substantially the same power to the Harbor Commissioners, who were authorized to dispose of the flats, contract for improvements, &c., subject to the approval of the Governor and Council. And section eight provides, expressly, that "nothing herein contained shall authorize said commissioners, by any stipulation or contract, to require the payment of any money from the treasury of the Commonwealth, except as provided in the third section of this act." (Which section relates to a sea-wall which was authorized to be constructed by act of 1867, chapter 354.)

The present Harbor Commissioners, acting under this authority, have proceeded with commendable diligence to enter into renewed investigations of a subject already familiar to them by several years' experience, and to advertise for proposals, and to settle and adjust controversies; and they have come before us with certain contracts for which they ask the approval of the Governor and Council. The Harbor Commissioners are the following persons, to wit: Josiah Quincy, Frederick W. Lincoln, Darwin E. Ware, Samuel E. Sewall and

William Mixter. Two of these gentlemen have been heretofore for many years mayors of Boston, and the other three are of most approved fitness, by reason of education, experience and study, to investigate and pass judgment upon this class of questions.

The approval of the contracts reported by them I see no ground for withholding. On the contrary, it seems to me that the Commonwealth has reason for congratulating itself that the difficulties attending this subject are likely thus to be removed; that long-standing controversies may be settled; and that this great improvement for the harbor of Boston may be commenced without the expenditure of a dollar from the State treasury, except for the sea-wall, which is a separate matter, and is provided for in a separate act.

The contracts laid before us are:—

First. An indenture with the Boston Wharf Company, which I do not understand in the main to be objected to by any one, and which certainly ought to be satisfactory, inasmuch as there are long-standing controversies between the parties—controversies which are now in the courts, and which are directly in the way of any improvement whatever by the Commonwealth.

Second. A contract with the Rockport Granite Company, to which there appears to be no objection, except that a portion of the proposed wall is too expensive. But on this point it appears that the harbor commissioners, not trusting to their own experience or knowledge, called in the aid of engineers of great distinction and of most approved capacity and skill, (Major-General J. G. Foster, of the U. S. Engineers, Messrs. James B. Francis, of Lowell, T. Willis Pratt and George R. Baldwin, of Charlestown,) who are unanimously of the opinion that a less substantial wall would not answer.

Undoubtedly the legislature, in making an appropriation for this wall, intended to build a substantial one, and I do not see my way clear to overrule the one decided on under such circumstances.

Third. A contract with N. C. Munson for the filling of the territory, most of the material for which is to be excavated from Boston Harbor. Mr. Munson is a contractor of well known character and ability, who has been long in the service

of the State, and to whose energy, capacity and integrity much of the success in the Back Bay operations seems due. I know not the man his superior for this kind of responsibility and action.

The objections made to this contract are chiefly two :—

First. That the payment is to be made in land, and that a more favorable one might be made by making the payments in cash.

Second. That the terms are too favorable to the contractor.

As to the first objection, I do not think it is competent for the Governor and Council to entertain it. It is not for us to overrule the policy of the legislature, as clearly expressed and enacted by the act of 1867, and again by the act of 1868, which policy is in condemnation of the idea of carrying on this enterprise by cash payment. The act under which the Harbor Commissioners have made this contract is peremptory on this point ; and in providing that the contract should be submitted to the Governor and Council, the legislature obviously intended that we should act under and in accordance with the law, and that we should not attempt either to evade its provisions or to evade our duty under them.

To reject this contract for such reason is to postpone the whole subject until another legislature can act on it, and thus to lose a whole year in time. But what reason is there for supposing that the next legislature will change the policy of the legislatures of 1867 and 1868 ? In my opinion, they will not change it ; for I believe the policy to be a correct one. It is possible that the Commonwealth might make more money by assuming this work itself, and by making cash payments from the treasury. There are certain exceptional cases of public improvements in which this course may be desirable. But in general, experience and good sense are against the carrying on of improvements for making money by State governments. The results very rarely come up to the expectations. Let the Hoosac Tunnel be our example. In the present case a great many citizens doubt whether the improvement will ever be a success. They think it will cost more than it will come to. Is it, therefore, a time, in the present state of our finances, to enter upon large cash expenditures for what must be regarded as an experiment or a mercantile speculation ? Moreover, this

present contract relates to only about one-seventh of the territory owned by the State. If it should turn out successfully, the Commonwealth will then have ample opportunity to improve its remaining property in a different manner and with all the experience gained at the risk and expense of the contractor in completing the first section.

The second objection to the contract is that it is too favorable to the contractor.

On this point the harbor commissioners appeared before the Governor and Council, and stated that they had long been impressed with the great importance of commencing this improvement at as early a day as possible. They have made every effort by public advertisement and personal inquiry and investigation to procure the most favorable terms for the Commonwealth; but there were difficulties of a serious character in the way. The enterprise is one of great magnitude. It requires a working capital of several hundred thousand, perhaps a quarter of a million of dollars. It is in a sense an experimental undertaking, which but few men of means and ability are willing to undertake. Under all the circumstances of the case they had made the best contract possible, and are, on the whole, satisfied with it, and think it would be a great mistake not to close it. The State will certainly have 1,200,000 feet of filled land. It can terminate the contract at its own pleasure. It will pay nothing from the treasury. But the great point is, that the work will be commenced and the experiment tried at the risk of the contractor. They deem it a great consideration to have this enterprise initiated without risk to the State treasury, and to have the full benefit of the large working materials, the capital, and, above all, the experience and energy of the proposed contractor. And especially they insist upon the importance of the clause that the Commonwealth may at any time annul the contract, and is only liable in that case to pay damages to be assessed by its own officers.

If, therefore, at any time hereafter, it is found that the work is not progressing satisfactorily, or that it is injuring the harbor, or that it is too profitable to the contractor, the State may at once take the whole thing into its own hands.

Upon this point I am not prepared to overrule the harbor commissioners. After devoting several years to this subject, it

seems to me safer to rest on their judgment than on any opinion formed at this board, which must necessarily be based upon less information and material for forming a correct judgment than those on which the harbor commissioners have acted, and if we err in this matter, the error can be easily corrected by our successors. Indeed, I am much impressed with the good sense of these remarks. I regard the policy which has been adopted by the two successive legislatures, that this improvement, if made, shall not be at the risk of the State treasury, as eminently wise, and I shall in no way give my sanction to the first step which seems to indicate a different course. And inasmuch as it seems clear that, if the present contract is carried out, the amount of filled land coming to the State, at a fair estimate of its value, will be sufficient to complete the wall now contracted for, and will leave several hundred thousand dollars in the treasury, it seems to me that this is a contract which will stand the test of scrutiny in a business point of view; especially as the Commonwealth will also have some six hundred acres of unfilled land which will in a sense be brought into market by this very operation. Nor am I disturbed by the reflection that the operation may be even better for the contractor than for the Commonwealth. That is a narrow policy which seeks to have all the advantage on one side. It cannot be expected that men of ability and means will devote their time and put their whole fortune at risk in these great enterprises unless there is to be a large margin of profit in case of success, when the consequence of failure will be serious. If the affair succeed, the State will make a good thing, not taking into account the benefit to the harbor, of which I shall speak presently. If it fail, the State will lose nothing, and the contractor will lose everything. To expect the latter, under such circumstances, to divide the profits equally with the Commonwealth, is not in accordance with business principles.

In regard to the details of the contracts which are before me, I have to remark, in the first place, that the presumption is in favor of their correctness. The harbor commissioners are men of ability and great practical sagacity, who have devoted much time to this subject, and on whom the responsibility mainly rests. These various contracts were obviously made after protracted negotiations with various parties, and it must

have been necessary to reconcile the conflicting views of all parties interested.

It is possible that in some of the details the contracts might be improved; but in a matter of this sort, involving a large amount of property and extending over a series of years, it would seem to be impracticable to arrange all the details at first in a satisfactory manner. Undoubtedly experience will show the necessity of numerous alterations as the work progresses. But it is in the power of the Commonwealth to insist on them, as it is authorized to terminate the contract at any time.

But there is another consideration of the greatest importance. This enterprise was originally thought of, not for the purpose of making money, but to preserve and improve the harbor of Boston; for any injury to this harbor is an injury to the material interests of the whole Commonwealth, of which it is the capital and principal commercial port. In one point of view, therefore, if this improvement can be made without any expense to the State,—that is, if land enough can be sold to pay for the improvement,—then this is a successful operation. All that is received over and above this is so much gained. Moreover, this improvement will create a large amount of taxable property, every dollar of which tends to diminish our pro rata taxation all over the Commonwealth. The amount of some three millions, received by the State from the Back Bay enterprise, is only a tithe of its real benefit, for already it has created some \$20,000,000 of taxable property.

If this whole South Bay territory had been given away twenty years ago, on condition of its being improved, the Commonwealth would have actually received a more substantial benefit in the improvement of the harbor, in the facilities of transporting merchandise, in building up Boston, and in the increase of taxable property, than it will now receive if we should sell it for many millions of dollars. The great delay in the business has been a serious mistake, and should not be tolerated a day longer. In my opinion there is imminent danger that a fresh delay now will be a loss of millions to the city of Boston and to the Commonwealth.

The great question now pressing upon us is one of finance. Our debt is very heavy. Taxation never pressed upon the people with greater severity. It is of prime importance to

develop all our resources, to maintain our high position for enterprise as well as for prudence, to increase in every suitable manner our industrial and commercial facilities, and to bring out the capacities of the State by the encouragement of individual enterprise. We are now a large manufacturing community. We ought to be also a large exporting community,—for the city of Boston, undoubtedly, possesses one of the best harbors in the world, and is one day nearer Liverpool than our great rival,—and there is abundant wealth which for years has been seeking investment in other parts of the country.

The Commonwealth has heretofore manifested a broad and liberal policy toward its capital. Owing to the encroachments of commerce there was left within the city of Boston limits, a few years ago, literally no space for the erection of elegant dwellings, and numbers of people were compelled to leave the city. But by the improvement of the territory owned by the Commonwealth in the Back Bay, on a scale of unexampled liberality, a new city has been created. The actual amount of cash paid into the State treasury, has been comparatively small; but this territory, when covered as it soon will be, will afford taxable property to an amount of at least fifty millions of dollars.

What the city now needs is a radical improvement of the harbor by the construction of new wharves, and the deepening of the channels, and the creation of space directly on the sea for the erection of spacious warehouses, immense granaries, cattle yards, and even storehouses, so that the riches of the West may here find an outlet to the sea, to be exchanged for the commodities of other countries.

To accomplish this we must act efficiently, promptly and emphatically, and with no narrow spirit. Instead of indulging in the miserable fear that our enterprising citizens may make something by joining with the Commonwealth, we should rather encourage a different spirit, and should rejoice at their success; and although I am not prepared to advocate the policy of the Commonwealth undertaking directly to carry out any enterprise which partakes of a commercial venture, I would advocate and I do advocate the encouragement of everything which tends to keep our young men at home, which induces our men of wealth to invest their property within our own borders, and

which may give us a commercial emporium second only to the great mart of trade and commerce in the Empire State. And I hold that the policy of the Commonwealth should be so shaped as to accomplish these results.

Having in my first message to the legislature called especial attention to the improvement of the harbor of Boston and the employment of the property of the Commonwealth therein for useful purposes, and having watched the progress of the affair and the proceedings of the Harbor Commissioners with the greatest interest, I am more than satisfied with their labors. I am rejoiced that they have succeeded in settling a long standing controversy, which has been for years in the way of any improvement of the flats ; that they have succeeded in harmonizing the interests of all parties concerned ; that they have made contracts which secure the building of a substantial seawall on the line indicated by the commissioners of the coast survey, which provide for dredging out the channels to a depth sufficient for the largest man-of-war, which will bring at least one hundred acres of land into use directly on the sea, which will call attention to and afford a market for the remaining six hundred acres of flats belonging to the Commonwealth, and which, so far from burthening the treasury and increasing the taxes on the people, will leave a handsome surplus in the one and greatly diminish the other. I care not if the contractor, who puts his all at the hazard of this enterprise and gives ample security to complete it within three years, makes a fortune out of it. I hope that he will ; and that will be the least of the benefits to which he will be entitled by his bold defiance of personal risk.

For these reasons I am in favor of affirming the contracts without further delay.

ALEXANDER H. BULLOCK.

HARBOR COMMISSIONERS' OFFICE, August 29th, 1868.

To His Excellency ALEXANDER H. BULLOCK:—

Dear Sir,—I ask permission to state some of the reasons that have led the Harbor Commissioners to submit certain contracts for the improvement of Boston Harbor for the consideration of the Council.

The first contract is with the Boston Wharf Company. In the year 1855 a grant was made to it by the Legislature of about 40 acres of flats, in such a position on Fort Point Channel as to deprive the State of any convenient access to its own property beyond. As nothing had been done under this grant, the legislature of 1867 repealed it; and the legal question as to the constitutionality of the repeal is now under advisement of the supreme court, with but small chance, in the opinion of able lawyers, of a decision in favor of the State; by the contract submitted, the proprietors of the wharf release to the State, in consideration of a perfect title to the balance, in flats and rights of wharfage, what we consider is equal or equivalent to one-half of the disputed grant.

The second contract is for the construction of a wall of about 700 feet in length on Fort Point Channel. As this is to be set back twenty-seven feet from the channel and protected, whenever used, by a platform, one built upon piles, (similar to that of the Boston Wharf which has stood for many years,) though cheap, was deemed to be sufficient. This wall, as well as the next, was awarded to the Rockport Granite Company and Messrs. Clapp & Ballou, and is similar to the one agreed to be built by the Boston Wharf Company.

The third contract is for what may be called a sea-wall. The Act of the legislature provides that, as a method of compensation, the harbor in general, and the slips on this territory shall be dredged to the depth of twenty-three feet at low water. The foundation of the wall must therefore be laid at that depth, and be of strength sufficient to stand against storms on one

side and the pressure of material on the other. As any imperfection in this work might lead to most serious results, by precipitating a vast amount of material into the harbor, to its great injury, the Commission asked the advice of four engineers of the highest character and greatest experience in structures of this nature. They submitted seven different plans for a wall, and asked them to recommend the cheapest structure that in their opinion would be sufficient for the purpose. After several consultations they unanimously recommended the plan marked G, submitted with this Report. On the eleventh day of July the Commissioners advertised for proposals, which were opened on the third day of August. They received four bids, two for \$17.50, one for \$12.00 and one (which was accepted,) at \$11.40 a yard laid. As the wall had to be laid by means of submarine divers at the depth of 23 feet at low water of dimension stones without pinners, this was thought to be as good an offer as any responsible bidders could be expected to make. In addition to this the Commissioners undertook that the contractor for filling the flats should excavate to the depth of 23 feet at low water and prepare a level bed for the reception of the masonry.

Such a wall could not be built except at a great expense—the resources at the command of the Commission were \$193,000, the balance of an appropriation made in the year 1867 of \$200,000, and a right to pay for filling, &c., by sale of flats. The Commission feel certain from the bids received that with the cash appropriation they can build the 700 feet of wall of the first contract and nine hundred and five feet of that provided for in the second, leaving one thousand feet which they are confident could be paid for by the sale of flats, without calling on the legislature for any further appropriation.

Having thus provided for the exterior wall the Commissioners advertised for proposals for filling any portion of the flats inclosed, the contractor to be paid by receiving either flats unfilled or a portion of those that were embraced in his contract. This was the only mode provided by the legislature, which expressly forbid any contracts being made that should bind the State to the payment of money. The very able committee appointed by the legislature of 1867 recommended

this, but the legislature of last year positively refused to adopt the recommendation.

But one bid was received in response to the advertisement, and this was made by N. C. Munson, well known as the contractor for filling the Back Bay lands, and many other important works, a man who is believed to be perfectly able to carry out any contract he undertakes. He offered within three years to fill, with material dredged from the bottom of the harbor, at such points as the Commissioners should direct, and with a surface covering of three feet of clean gravel, 4,660,870 (four million six hundred and sixty thousand eight hundred and seventy) square feet, which, at the lowest probable rate, would amount to an outlay of \$2,000,000, most, or all of which must be expended before any return, either for principal or interest, could be made. As soon as filled he proposed that the Commonwealth should deed to him all the land to the west of B Street extended, amounting to 3,460,870 square feet, and retain 1,200,000 feet to the east of the same street. The amount demanded was large and embraced that part of the property that would first come into the market; but as it was the only bid, the Commissioners had contracts carefully drawn and have submitted them to the Council.

The object of the legislature, in the opinion of the Commission, was to improve and benefit Boston Harbor,—profit on sales of land being only incidental. This is evident by its refusing to make any appropriation of money, as recommended by the committee of 1867, for the purpose of reducing the cost by obtaining a general competition, and also for the proviso that any injury to the harbor resulting from the work shall be repaired by dredging or otherwise. The committee, in their report, deem it “in the highest degree desirable that this entire territory should be kept under one control,” and are of opinion that “the value of the property will depend very much on the management, with reference to time as well as to the manner of filling and of sales,” and that, “looking to ultimate financial results, it might be good policy in the early stages to make large sales at low prices, for the purpose of inviting business enterprise in this direction.” The Commission agree in these views, for it is evident that the value of this property will depend on its becoming the depot for railroads, which

renders it imperative that a large tract should be filled before any sales were made. Sales, as on the Back Bay, of small lots, would defeat this object.

To induce railroads to locate on this property, the land they need must either be sold at a low price, or, as in the case of the location of the Worcester Railroad on the South Cove, a large tract must be given to enhance the value of the rest; and on the price obtained after such deductions, the success, financially, of the enterprise must depend.

These conditions can only be complied with by the State's advancing money, or by some responsible contractor's making a great outlay and running a great risk, in the hope of obtaining a large and adequate return.

The State, though urged by the very able and influential committee, positively refused to advance any further money, and positively order the Commissioners not to enter into any contract that will bind the State to any such payment; and thus avoids all risk, all necessity of raising money, and all loss of interest while waiting for purchasers.

As before stated, the Commissioners received but one bid; but that was by a responsible contractor. The gentleman who made the lowest bid, when invited by the committee, though urged before the bids were opened, positively declined to be a competitor, and I know of no one else who could or would undertake it on the terms offered by Mr. Munson.

Mr. Munson shows his confidence in his bid being satisfactory to the legislature by offering at any time to give up his contract and receive, without the rights of appeal, such damages as the Governor and Council may award.

The acceptance of this bid provides for the dredging necessary for the foundation of the exterior wall, which would add, if done by the State, \$49,550 to the estimate for the first section. It insures the immediate improvement of the harbor of Boston. It will be the first step towards reclaiming the six hundred acres of flats bounding on deep water that will still belong to the State in this locality, as fast as the may be needed for railroad, manufacturing, or other purposes.

In conclusion, these offers, if accepted by the Council, will insure the improvement of the harbor by erecting the wall recommended by the advisory board for the direction of the cur-

rents on the edge of the South Boston flats ; will remove all the shoals, including the upper middle, to the depth of twenty-three feet at low water ; will give ample accommodations for railroads and manufactories for a century to come ; will lead to a development of the large amount of property belonging to the State ; will vastly increase the taxable property, both of the city and the Commonwealth, and will not require any further appropriation from the treasury of the State.

I am, very respectfully,

JOSIAH QUINCY,
Chairman of the Board of Harbor Comm'rs.

Commonwealth of Massachusetts.

COUNCIL CHAMBER, BOSTON, October 5, 1868.

The Committee of the Council to which was referred the several contracts made by the Harbor Commissioners with sundry parties, in relation to Boston Harbor and the South Boston flats, have considered the same, and herewith submit their

REPORT:

There are four contracts presented by the Harbor Commissioners to the governor and council for approval:

First. A contract with the Boston Wharf Company, by which it is proposed to compromise the conflicting claims of title to certain flats between the Wharf Company and the Commonwealth, by a partition of the territory in dispute, and a conveyance from each party to the other of certain specified portions thereof, with further provisions as to sea-wall and filling. This contract the Committee believe to have been wisely made, and that a settlement thus early to be accomplished will prove beneficial to both parties. But we are advised by the Harbor Commissioners that the contract is, in certain particulars, so connected with, and dependent upon, the other proposed contracts that unless they shall be approved some modifications will be necessary to make this contract practicable. In view, therefore, of the conclusion to which we have arrived with reference to the others, we recommend the return of this contract to the Harbor Commissioners for further negotiation with the company.

Second. There are two contracts with the Rockport Granite Company and Messrs. Clapp & Ballou for building sea-walls; one upon Fort Point Channel and the other upon or near the exterior line of the harbor as recommended by the United

States Commissioners. These contracts appear to have been well made, the work required substantial, and the prices to be paid reasonable. These, also, in a measure depend upon the Munson contract hereinafter named, and cannot be approved unless that is approved.

Third. A contract with Mr. N. C. Munson, which provides for filling 4,665,000 square feet, or more than one hundred acres, of flats, extending from Fort Point Channel and lands of the Boston Wharf Company on the west to a line about seven hundred feet easterly from "B" Street extended, and substantially parallel therewith. For filling this territory the contractor is to take for his compensation all the land lying between said channel and land of the Wharf Company on the west, to the line of "B" Street extended, amounting to 3,465,000 square feet, or, in round numbers, seventy-nine and a half acres. And the Commonwealth, as its share in the contract, a strip of filled land, about 700 feet wide on the easterly side of "B" Street extended, containing 1,200,000 square feet, or about twenty-seven acres.

The South Boston flats, in all, embrace about 700 acres, which will, in time, be required for the extension, growth and business interests of the city of Boston. It appears to be agreed on all hands that the filling of these flats, by taking the material from the harbor by dredging in the manner proposed by the contract, will vastly improve it, by extending largely the area of deep water, and by giving such direction to the currents as to materially assist in removing obstructions and preventing collections of mud or sand upon the harbor bottom. If, therefore, by a wise forecast and management on the part of the Commonwealth, the harbor may be greatly improved, and at the same time the treasury of the Commonwealth be largely benefited, every officer charged with responsibility to the Commonwealth should use his best exertions to accomplish these results.

The subject is one of great importance. The legislature has authorized the Harbor Commissioners to make contracts, subject to the approval of the governor and council, for filling and disposing of these lands; but they have not, except for building a sea-wall, authorized the payment of any money from the treasury of the Commonwealth. Pursuant to authority given

them, the Harbor Commissioners duly advertised for proposals for filling, and the bid of Mr. Munson was the only one made, and that, as we understand, not as favorable to the Commonwealth as the commissioners had hoped and expected; but anxious, doubtless, to commence what all regard as a great system of harbor improvement, they concluded to accept this bid. The only question for the Governor and Council is, Shall the contract be approved? No contractor could be expected to enter into a contract of this magnitude, involving a term of years for its completion and a large outlay of money, without a very large margin for contingencies and profit. Two of the contracts, as already stated, provide for the erection of a sea-wall from a point at the corner of land of the Boston Wharf Company on Fort Point Channel and running thence to the line of "B" Street extended. This will exhaust the appropriation of \$200,000 made by the legislature, and the wall cannot be continued farther without an additional grant of money or the disposal by the commissioners of the whole or a part of the filled lands reserved to the Commonwealth under the contract.

Mr. Munson takes all the flats thus inclosed by the sea-wall on the water side, covering the entire distance from Fort Point Channel and the Wharf Company land to "B" Street extended, embracing seventy-nine and a half acres of the most valuable part of the whole territory, and including what is to be received by the Commonwealth under the proposed contract with the Wharf Company. The share of filled land reserved to the Commonwealth consists of 1,200,000 square feet lying entirely in the rear of the contractor's portion, the nearest part of it to the city proper being more than 1,800 feet distant from Fort Point Channel, and this without the advantage of a sea-wall on its water front, as the contractor's share is to have. If there is any considerable value in these flats beyond the cost of filling, the bare statement of this division of the lands seems almost sufficient to convince us that the contract should be disapproved.

The Committee made inquiries to ascertain whether it would be less expensive to fill these flats with material brought from the country, as in the case of the Back Bay, than by taking the material by dredging from the harbor, as provided by the contract. We are assured that the latter is the cheaper mode. From what we can learn the cash cost of filling the lands to be

conveyed to Munson will be from 36 to 40 cents per square foot of area. Take then the 3,465,000 feet, and the filling at the maximum sum named would cost \$1,386,000. Deduct one-third for streets and docks, and we have 2,310,000 feet of available land for the market.

With the Eastern Avenue constructed, and the sea-wall built as proposed, this land will be of immense value; at one dollar per foot it would bring \$2,310,000. Without estimating interest on the outlay, which would depend upon the time which must elapse before sale, and deducting \$200,000 for sea-wall, and the profit on the contractor's land alone, would be \$724,000; estimated in the same manner, at eighty cents per foot, the profit would be \$262,000.

Take now the filled land reserved to the Commonwealth, viz.: 1,200,009 square feet, without the sea-wall on its water front, and in the nature of things not available until after the land of the contractor shall have been substantially disposed of. Deduct one-third for streets and docks, and we have 800,000 square feet for the market, at such time hereafter as the demand shall require it. This cannot, we think, be nearly as valuable as the other, for obvious reasons; it lies at a much greater distance from the business portions of the city, and a much greater time must inevitably elapse before it will be required for occupation. Assuming one dollar per foot for the Munson land, taken as a whole, to be a fair value, this, taken together cannot, we think, be more than half that sum, which would give \$400,000. Deduct from this \$132,000 required to build the sea-wall, and \$200,000 for the wall against the contractor's land, and the net profit on the whole 4,665,000 square feet, saying nothing of interest, would be only \$68,000.

Again, estimate this land at one dollar per foot (and we are not aware that anybody would claim it to be nearly as valuable as the other,) and deduct the cost of walls, say \$332,000, and we have \$468,000, which is \$256,000 less than the profit upon the contractor's land alone; waiving the question of interest, if these estimates are correct, it would seem that there can be no doubt as to the conclusion to which we must arrive.

A growing faith in the value of these flats has been observable, both in the legislature and elsewhere for years. Who does not remember what has been said of the short-sightedness

of the legislature in making a grant of a large quantity of these very flats to the Boston Wharf Co., in 1855, and of the attempted repeal of the same by the legislature of 1867?

In 1864 the proceeds of the sales of all the public lands were pledged to constitute a sinking fund for the redemption of the war debt of the Commonwealth. How much money can be realized from these flats, for the purpose named, if these contracts shall be approved? And if the amount realized from this, the most valuable part of the whole territory, is to be little or nothing, what reason is there to hope for anything from the remainder? And so we may ask, was there, after all, any very great mistake made in the grant to the Wharf Co., taking these contracts as a basis upon which to form our opinion?

But it will be said, in answer to these views, that the law does not allow an expenditure of money from the treasury of the Commonwealth for filling,—that the legislature has established this as a policy, and therefore that this question is not open to us. Thus far this is so; but if it can be reasonably shown that the interest of the Commonwealth is largely in favor of a change of policy in this regard, we cannot doubt that the change will be made. But we do not feel so sure that a change is necessary at all.

The railroads, or some of them, entering the city from the south, need and ought to have a portion of this territory to enable them to reach tide-water. True, the Boston and Albany has made arrangements to reach deep water at East Boston, which must be extremely inconvenient at best. If they can get suitable accommodations on these flats, it would seem that their interest would require the disposal of their East Boston property, which will be needed for the railroads entering the city on the north. It is not improbable, therefore, that the Harbor Commissioners may be able to enter into contracts with one or more of the railroads for portions of these flats, and thereby enable themselves to carry on these improvements of the harbor with large financial benefit to the State without calling upon the treasury for an additional dollar.

If then, railroads are to reach deep water over these flats, should not the Commonwealth retain its power of disposal and regulation, in order to harmonize conflicting interests,—see

that grants are so made as that the great public interests shall suffer no detriment, rather than trust this important power, over so large a territory, to a single individual? We are told that the difficulty heretofore has been that no comprehensive plan has been adopted for the occupation of these lands. Will the difficulty be remedied by placing so important a part of this territory in the hands and power of an individual? If the railroads are to occupy this territory, a comprehensive plan must be adopted, and regulations adapted to the various interests of the corporations, and the public prescribed and maintained.

At present, the uses to which these lands are to be applied do not distinctly appear. Whether docks will be required is not known. It may be questioned whether it is advisable to commence the construction of the sea-wall until the filling has been made, and the destined use of the lands shall more clearly appear. Sheet piling, or a temporary bulkhead, or such a structure as the Wharf Co. are now filling against, can be built at small expense, and a considerable outlay for interest be thereby saved.

Without meaning to express a decided opinion upon this point, we make the suggestion.

Upon the whole case, therefore, a majority of the Committee are of opinion that these contracts should be disallowed in the hope that the Harbor Commissioners will yet be able to present others more advantageous to the Commonwealth.

WILLIAM CLAFLIN.

THOS. TALBOT.

R. G. USHER.

CHAS. ENDICOTT.

MINORITY REPORT.

The subscriber, a member of the Committee on the harbor contracts, begs to inform the Council that when the report of the majority of the committee was drawn up, he only had opportunity to express his dissent from the conclusions arrived at. But, in consideration of the importance of the subject, he now submits some of the reasons for the course he feels obliged to take.

It is a great many years since the attention of the State authorities has been called to the subject of improving the harbor of Boston by a proper disposition of the South Boston flats. Everybody familiar with the subject admits the necessity of some action. Every one believes that the State is the only party which can do it, inasmuch as the property of the flats is in the Commonwealth.

Commission after commission has been appointed and many reports have been made, and considerable expense incurred. But the subject has been postponed from time to time for reasons too numerous to mention now, some of which however are not creditable to the business sagacity of the Commonwealth.

At length this matter has assumed a practical shape. The Harbor Commissioners acting under authority vested in them by law, have succeeded after a good deal of negotiation and trouble in settling various controversies and in making contracts by which a considerable portion of the territory will be inclosed by a substantial sea-wall and filled up to the proper level, and at the same time the harbor will be greatly improved, as most of the material used in filling the flats is to be dredged out of the channels. The territory embraces only about one-seventh of what is owned by the Commonwealth, but probably as much as will be called for immediately, and the work is to be completed in three years. The contract for filling the flats does not call for the expenditure of a dollar from the State

treasury, and no liability whatever is incurred by the Commonwealth. The compensation of the contractor is to be a portion of the land itself, and there will remain of filled land belonging to the Commonwealth 1,200,000 feet. By carrying the seawall about a thousand feet further than is provided for in this contract the State property in the first section of this territory will consist of the 1,200,000 feet of filled land and of several million feet of inclosed but unfilled flats, which flats, at the lowest estimate put upon them, will be worth more than a million of dollars, over and above the cost of the wall and other expenditure or liability of the Commonwealth.

But this is not all. The arrangement includes a settlement with the Boston Wharf Company, which is in the highest degree important. It seems that the legislature made a grant to this corporation some fifteen years ago of certain rights of occupancy on these flats and of dockage which will practically prevent the Commonwealth from improving its own flats for many years, if ever. This is obvious from the various plans of the territory submitted to the Committee. In 1867 the legislature undertook to repeal this grant, and their right to do so is now a subject of litigation in the courts. Until that litigation is at an end nothing whatever can be done, and it may, and probably will, be several years before the final decision of the courts can be established. This of itself is a most serious inconvenience and loss, and if the decision is adverse to the Commonwealth, in my judgment its remaining flats will never be worth improving at all. Now it is part of the present arrangement that the controversy with the Wharf Corporation is settled, and the terms of settlement are agreed on all hands to be highly satisfactory. It is one of those matters where harmony is clearly for the interest of both sides. The Committee were all desirous of approving the contract with the Wharf Company, but it is so linked in and connected with the others that this is impracticable.

In my opinion this settlement alone should insure the approval of the whole arrangement, even if the Commonwealth were not to receive a dollar from it in cash or in land, for the grant to the corporation effectively stands in the way of any future improvement of the territory.

On the face of these contracts, therefore, they seem to be desirable. It is possible that better ones might have been made. It is possible that some of the details could be advantageously altered. But as the harbor commissioners are men of character and ability, on whom is devolved by law the main responsibility of this enterprise ; as they appear to have given the subject great attention and unanimously and strongly desire the approval of the contracts, the presumption is clearly in favor of that course. The opposition to the contracts, so far as it has been developed before the Committee, has come from three members of the legislative committee of 1867, who had this subject in charge. That committee accomplished nothing practically, because they were dissatisfied with the law under which they acted and thought it ought to be changed. They were of the opinion that it would be more economical for the Commonwealth to pay for these improvements in cash, and so reported to the last legislature. But the last legislature was not convinced by their reasoning, and passed another law reaffirming the policy that the cost of filling these flats should be paid in land, and not in cash, or the enterprise should not be commenced. Whether this policy is the wisest or not is now too late to consider. But it was urged on our Committee that the whole subject should be delayed, so that another legislature might consider it, and a confident opinion was expressed that a large appropriation could be obtained to carry on the work entirely by the State by cash payments from the treasury.

I am not impressed by this reasoning, because I do not believe that any legislature, in the present state of our finances, will enter upon what must, after all, be considered a land speculation. Nor do I believe such a course would be wise on any business principles. Such affairs always fail unless carried on by private enterprise. These large land operations are very deceptive: they seldom come up to the sanguine expectations of their projectors, and when undertaken by States or public bodies, they almost always fail.

It was stated to the Committee at one of the hearings, that the city of Boston several years ago employed Mr. William Evans to fill a large tract of flats at the south part of Boston, and had not received for the land an average of one-half of what it cost to fill it.

It is true that a majority of the Committee do not openly and directly advocate the principle of the State's improving this territory on its own account and by cash payments, but the course they recommend tends to this result.

They object to details in the contracts, but they suggest no modification.

They think there should be more safeguards against abuses, but they do not point them out.

Their course tends directly to delay the commencement of a work which has been under consideration many years, in the hope, apparently, that "something may turn up." The result will be to throw into the next legislature a disturbing element, and to afford those who desire a large cash appropriation to operate on that body in order to secure that result, and, perhaps, to join this scheme with others to that end.

It is a significant fact that no opposition whatever has been made to these contracts except by members of the legislative committee of 1867, who have most vigorously and pertinaciously opposed it, both by appearing before the Committee, and by personal solicitation of members of the Council, and one of them has printed his speech before the Committee in the newspapers. There is something singular about this extraordinary interest in stopping this work, and in practically putting an end to the operations of the harbor commissioners. Now, as before remarked, this committee of 1867, and the harbor commissioners, have been at variance in regard to the best policy to be pursued. The committee were in favor of the Commonwealth entering upon the work by drafts from the treasury, but their policy was overruled by the legislature last winter. One of the members of this committee, who appeared before the Committee and opposed these contracts, is an able and skilful engineer. He was asked why, if he thought the contractor had so good a contract, he did not himself bid. He replied that he would not take the job if the payment was to be in land, but might take it if payments were to be made in cash. The opposition of these gentlemen, under the circumstances, is not entitled to any more weight than their arguments carry.

It is well known that the committee of 1867 were at

variance with the harbor commissioners on various other points.

But the harbor commissioners were sustained by the last legislature unanimously, and the act appointing the committee was repealed.

They, or some of them, now ask us to sustain their views against those of the legislature, and to set aside contracts made by the harbor commissioners, and to defer this whole matter for a year, for it will amount to that, and to throw over the settlement with the Wharf Corporation, and all, in order to afford them the opportunity to induce the legislature to change the policy of paying for these improvements in land and not in cash.

I am in favor of approving the contracts at once, and if changes are required hereafter, or if the State does change its policy, then the contracts may be terminated.

PETER HARVEY.

To His Excellency the Governor :

The undersigned, members of the Harbor Commission, having learned that the Committee of the Council have submitted a report disapproving of the several contracts submitted to them, ask leave, most respectfully, to state what they fear will be the consequences of such a rejection, and some additional suggestions in favor of their adoption.

By the Act of 1855, a piece of flats, containing about 1,500,000 square feet, was granted to the proprietors of the Boston Wharf, together with the rights of dockage at the northerly end of the same. By the Act of 1867, the legislature repealed or rescinded the Act of 1855, in order to re-invest the property in the State.

The proprietors of the Boston Wharf Company, disregarding this last Act, began to drive piles on the disputed territory, when, on the requisition of the Harbor Commissioners, the attorney-general applied for an injunction, and the question of the constitutionality of this Act of revocation is now pending before the supreme court.

The Harbor Commissioners felt that the first object was to make a settlement with the Boston Wharf Company, as nothing could be advantageously done until this was effected. After protracted negotiations, the directors of the corporation entered into the contract submitted. It was done against the opinion of some of the largest shareholders, who maintained, that by entering into it they gave up a large property, the title to which, their lawyers assured them, would be confirmed by the supreme court. The inducement that is supposed to have decided these directors, was the immediate development of their own property by the adoption of these four contracts, which, considered as one, would settle all questions and lead to the immediate commencement and final completion of this all-important work.

Should these contracts be rejected, the Harbor Commissioners will use every exertion to obtain another settlement; but, knowing from experience the difficulties of the case, they are unwilling, on their own responsibility, to take the risk of a failure that might postpone for years the inception of the under-

taking, or present almost insurmountable obstacles to its prosecution ; for if the suit is decided in favor of the State, means will be devised for carrying it to the supreme court of the United States, and years may elapse before anything can be done. But, should the decision be adverse to the claim of the State, what, then, is its position ?

The plan herewith submitted shows the grant made by the State in 1855, together with the dock at the northerly end of the dimensions, to which the wharf might be entitled. This, with the right of dockage on Fort Point Channel, is all that is given by the Act in question ; but by a previous Act, a right of wharfage on the eastern side of the original wharf was granted. The State would, therefore, be obliged to leave an access to this of probably 150 feet in width. By this plan, it appears that the Boston Wharf, if successful, will own or control all the flats 150 feet beyond the northern avenue, and 90 feet beyond the heads of the westerly wharves, as laid down on the several plans. If they prevail, the objection to the location of the land given by the contract to Munson fails, as they would then get by law control of most of the flats on Fort Point Channel which Munson would obtain by contract.

But it is thought that, if these bids are rejected, other contractors can be found who will do the work on more favorable terms. The Commissioners know of but two parties who possess the requisite capital, experience and facilities. They are the same who made the bids alluded to by the legislative committee,—the Messrs. Staunton and Mr. Munson.

Shortly after the advertisements for proposals were made, the Chairman met Mr. Staunton and urged him to make an offer. Applications had been previously made to the directors of the several railroads, but they all declined to enter into competition.

Mr. Munson was the only bidder, and he refuses to make any modification of the one now before the Council.

The Commissioners know of no other parties who would take the contract for this work on the terms they are authorized by the State to offer. Bidders might be obtained if the State would pay in cash,—or, in other words, would borrow money in order to go into a doubtful land speculation,—which the legislature, though strongly urged by the influential committee of the legislature of 1867, positively refused to do.

As to the cost of filling and the profit to be made by the contractor, the Commissioners submit certain calculations; but they would previously state that the cost of dredging material from 23 feet below low-water, is very uncertain.

Analysis of the contract with the Commonwealth and N. C. Munson.

Total area of flats to be filled,	. . .	4,665,000 square feet.
Commonwealth to receive	. . .	1,200,000 " "
N. C. Munson to receive	. . .	3,465,000 " "

From 3,465,000 square feet deduct one dock which the contractor is bound to build, equal to 224,000 square feet,	. . .	3,241,000 square feet.
Add land of Commonwealth, 1,200,000 square feet,	<u>1,200,000</u> " "

Total filling to be made, . . . 4,441,000 square feet.

Assuming cost of filling at 40 cents per foot,	
4,441,000 feet, at 40 cents,	. . . \$1,776,400 00
About 4,000 feet temporary bulkhead, at \$6,	. . . 24,000 00
580 feet of sea-wall upon the exterior line will have to be built by the contractor if he pre- fers to discontinue the first two docks pro- jected—580 feet at \$189,	. . . 109,620 00
	<u>\$1,910,020 00</u>

Contingencies upon this expenditure, 10 per et.,	191,002 00
Interest upon money expended second year,	. 49,020 00
" " " " third year,	. 98,047 00
" " " " fourth year,	. 147,070 00
	<u>\$2,395,162 00</u>

Estimate of income from the sales of land of N. C. Munson.

Area of flats mentioned in the contract,	3,465,000 square feet.
Deduct for one dock 224,000 square feet for streets	<u>196,095</u> " "
	<u>420,905</u> " "
Total salable area,	. . . 3,044,905 square feet.

3,044,905, square feet, at \$1 per foot,	.	.	\$3,044,905 00
Total expenditure,	.	.	2,395,162 00

Largest possible profit,	.	.	\$649,733 00
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Assuming an average sale at 80 cents per foot,

3,044,905 feet, at 80 cents,	.	.	\$2,435,924 00
Total expenditure,	.	.	2,395,162 00

Profit,	.	.	\$40,762 00
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It is improbable that the railroads will pay the contractor one dollar per foot; and they being probably the largest purchasers of this territory, the largest possible profit mentioned above will be considerably reduced.

The Commonwealth will receive by the contract with N. C. Munson 1,200,000 square feet, exclusive of any dock that might be built upon that territory.

Deduct for streets, 159,780 square feet—1,040,220.

At the lowest possible price, 50 cents,	.	.	\$520,110 00
The completion of the sea-wall for			
the whole first section would be			
1,000 feet at \$189,	.	.	\$189,000 00
Bulkhead between the walls, 870			
feet, at \$10,	.	.	8,700 00
			<u>197,700 00</u>

Making net proceeds,	.	.	\$322,410 00
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The estimate of 50 cents per square foot for the Commonwealth's land appears too low in comparison with the estimate of the contractor's land.

It is assumed by the Commissioners, that if this contract is approved, it will not be necessary for the State to make another appropriation in cash for the construction of the wall or the completion of the work. Their reasons are,—

First. Mr. Munson contracts to erect at his own expense, to the satisfaction of the Commissioners, a sufficient bulkhead to

retain the filling on the 1,200,000 feet belonging to the State ; and,

Secondly. That when the State have, excluding streets, 1,040,220 feet of land on B Street extended, they can sell it at once in one lot, if it were necessary, for 50 cents per foot, which would pay for the whole wall on the first section, repay the \$200,000 already appropriated and leave \$122,410 to go into the treasury.

There is one other point to which the Commissioners would call particular attention. By the contract, Mr. Munson agrees that the Board may at any time *alter or cancel* the contract, and his damages are to be assessed by the Governor and Council without appeal. This gives the Commonwealth and its Commissioners the entire control, and will enable them to have the very land granted to Mr. Munson disposed of in such manner as may, in their opinion, conduce most to the public good, and puts it in the power of the State authorities to insist upon any and all changes in the details of the contract, as experience may show to be necessary as the work progresses. It is impossible at the commencement of a great improvement like this, to fix upon the provisions with entire precision. For instance, in what relates to streets and drainage, the details must depend in a measure upon the method of connection with the main land, the precise uses to which the territory is to be applied, and the actual effect on the harbor of erecting the sea-wall. But the State retains in its hands the power to insist on these changes, for it can alter or annul the contract if its wishes are not heeded. When the first contract was made as to the Back Bay, only a single street was laid out, and that one was subsequently changed ; and a great many changes in streets, squares and sewers have been made from time to time as the works went on. The Commonwealth can, under this contract, always protect itself against any improper or unreasonable use of the territory to be acquired by the contractor.

In conclusion, the undersigned respectfully state, that they would have been happy if other competitors had enabled them to make a better bargain for the Commonwealth ; but that having an opportunity of making a contract that would insure the immediate commencement, and final completion of a work that would benefit, incalculably, the harbor of her capital, and

add millions to the taxable property of the State, they were, and are, unwilling to take the responsibility of risking the whole on the contingency of their being able to make another bargain with the Boston Wharf Company, or getting another contract on better terms, especially as these contracts relate to less than a seventh of the seven hundred and fifty acres in this locality belonging to the Commonwealth.

JOSIAH QUINCY.
S. E. SEWALL.
DARWIN E. WARE.
F. W. LINCOLN, JR.

BOSTON, October 9, 1868.

NOTE.—The Hon. WILLIAM MIXTER, the only member of the Harbor Commission whose name is not appended to this communication, was not in town and could not be reached when this document was signed and sent to His Excellency the Governor. But his opinions are known to be in concurrence with those of his colleagues.

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